

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, : 18-CR-00204(NGG)

-against- : United States Courthouse
: Brooklyn, New York

KEITH RANIERE, ALLISON MACK, CLARE BRONFMAN, KATHY : 11:00 a.m.

KEITH RANIERE, ALLISON MACK, : 11:00 a.m.
CLARE BRONFMAN, KATHY
RUSSELL, LAUREN SALZMAN and
NANCY SALZMAN.

Defendants.

TRANSCRIPT OF CRIMINAL CAUSE FOR STATUS CONFERENCE
BEFORE THE HONORABLE NICHOLAS G. GARAUFIS
UNITED STATES SENIOR DISTRICT JUDGE

APPPEARANCES:

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1 APP E A R A N C E S: (Continued)
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2 A P P E A R A N C E S: (Continued)
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14 produced by Computer-aided Transcription.

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18 (In open court.)
19 (Judge NICHOLAS G. GARAUFIS enters the courtroom.)
20 THE COURT: Good morning. You may be seated in the
21 back.
22 Case appearances.
23 MS. PENZA: Moira Kim Penza, Tanya Hajjar, Mark
24 Lesko and Karin Orenstein for the United States.
25 Good morning, Your Honor.

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1 THE COURT: And what about Mr. Trowel?

2 MS. PENZA: I believe Mr. Trowel is back there
3 (indicating).

4 MR. TROWEL: Good morning, Your Honor.

5 THE COURT: There is room here too, you know.

6 All right, thank you.

7 Yes.

8 MR. AGNIFIL0: Yes, Your Honor. Marc --

9 THE COURT: Wait. Let's wait for your client.

10 MR. AGNIFIL0: Yes.

11 (Defendant enters the courtroom.)

12 MR. AGNIFIL0: Thank you, Your Honor.

13 THE COURT: Go ahead.

14 MR. AGNIFIL0: Yes, Marc Agnifilo, Teny Geragos,
15 Paul DerOhannesian for Keith Raniere, who is now present in
16 the courtroom.

17 THE COURT: Thank you.

18 MR. AGNIFIL0: Thank you.

19 THE COURT: Good morning, sir.

20 MR. DIAZ: Good morning, Your Honor. Hector Diaz
21 for Lauren Salzman, who is seated here.

22 THE COURT: Good morning, Ms. Salzman.

23 MR. McGOVERN: Bill McGovern for Allison Mack who is
24 here next to me.

25 THE COURT: Good morning, Ms. Mack.

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1 DEFENDANT ALLISON MACK: Good morning.

2 MR. SOLOWAY: Good morning, Your Honor, Robert
3 Soloway and also Rachel Perillo from my office, an associate,
4 here together representing be Nancy Salzman.

5 THE COURT: Hi, Ms. Salzman.

6 DEFENDANT NANCY SALZMAN: Hi, Your Honor.

7 THE COURT: Where are you? It's nice to see you
8 here. I hope you are feeling better.

9 DEFENDANT NANCY SALZMAN: Thank you.

10 MS. HARRIS: Good morning, Your Honor, Justine
11 Harris and Amanda Ravich for Kathy Russell, who is on my left.

12 THE COURT: Good morning, Ms. Russell.

13 MS. NECHELES: Good morning, Your Honor. Susan
14 Necheles and Kate Cassidy for Ms. Bronfman.

15 THE COURT: Thank you. And good morning, ma'am.

16 Please be seated.

17 MS. NECHELES: Thank you.

18 THE COURT: The reason for this meeting is for us to
19 start dealing with the issues raised by the existence of the
20 irrevocable trust that was brought to the Court's attention.
21 And the Court has reviewed the initial filing back in, I think
22 it was in December, by Mr. Agnifilo, but the subsequent filing
23 that was provided at the Court's request contains the two
24 documents that the Court wants to discuss with you today.

25 There is what I would call the trust indenture and,

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1 I think, four exhibits or schedules that are attached to that
2 indenture. And then there is the declaration that was
3 submitted to the Court with a cover letter from Mr. Agnifilo
4 on January 14th.

5 The reason the Court is, obviously, concerned is
6 that the declaration raises some issues regarding
7 representation of five of the defendants, other than the
8 trust's grantor. And so before we go into the subject of a
9 Curcio hearing for these defendants, according to the view
10 preliminarily that the trust indenture and the declaration
11 should be made available, perhaps with redactions, appropriate
12 redactions that we can raise here today or that you can raise
13 in submissions, which might have some problems for the
14 defense.

15 And I am just wondering, have all the defendants and
16 their counsel seen the trust indenture and the letter and the
17 declaration from the attorney for the trust?

18 MR. AGNIFILO: We've seen it.

19 MS. HARRIS: Your Honor --

20 THE COURT: I'm sorry, the trust document that
21 created the trust.

22 MS. HARRIS: Your Honor, at least --

23 THE COURT: Well, state your name.

24 MS. HARRIS: Sure, Justine Harris for Ms. Russell.

25 We -- a number of the attorneys and I, I don't know

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1 if Mr. Agnifilo was in a different situation, but we do not
2 have the letter with the indenture that was submitted, the
3 actual trust document that was submitted, I believe ex parte
4 and directly by counsel for the trust to the Court. We have
5 not ever seen those documents.

6 THE COURT: Well, it is not a secret, I do not
7 think, that each of you has, each set of attorneys has a
8 Retainer Agreement with his or her client, right?

9 MS. HARRIS: Correct.

10 THE COURT: I mean that is implicit in what is set
11 forth in the trust document.

12 So, cutting to the chase, the issue is if there is a
13 certain amount of money that was placed in the trust,
14 primarily by Ms. Bronfman, and that is a sum that I am not
15 going to disclose here, but there is a sum of money, and there
16 is no guarantee, there isn't any representation that any
17 further funds will be made available. It is also clear from
18 what I have seen that a good portion of that, those funds,
19 have already been expended in connection with the
20 representation of your clients. Leaving a certain amount in
21 that corpus for further legal fees. Which raises a real issue
22 here as to when those funds have been expended, which could be
23 any time in the near future, what happens then?

24 And that is a real issue for the Court because we
25 are going to go to trial at the end of April and I am going to

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1 expect that the people who are representing these defendants
2 are going to be in a position to continue representing the
3 defendants. And if there is some reason why when the funds
4 are no longer available, if there is a reason why the
5 attorneys would not be able to continue, then I need to know
6 that now.

7 In other words, and this is something that you need
8 to discuss with your clients, that in the event that there are
9 no longer funds available in this irrevocable trust and there
10 are no further funds made available, which is entirely
11 possible -- I cannot read minds, but I also have reason to
12 believe there may not be -- then what happens with regard to
13 the representation of these defendants?

14 This is a question that has got to be answered soon
15 because we are two months from trial, basically two months
16 from trial, and if I need to appoint counsel for the
17 defendants who would not be able to pay additional legal fees,
18 then I want to be able to do that soon so that we can go ahead
19 with this trial on time. These are real life issues.

20 I also do not know, and do not believe, at least
21 based on the caselaw that I have seen, that the contents of
22 this trust document and the declaration from the attorney for
23 the trustee, Mr. James Q. Walker, would be subject to the
24 lawyer/client privilege, at least not under Second Circuit
25 caselaw.

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1 So these are some of the issues that we need to
2 address. And in order to address them and in order for me to
3 hear from the Government about any additional questions for
4 Curcio hearings, it is my belief that the Government should
5 have access to the trust indenture and the declaration from
6 Mr. Walker, subject to any redactions that the defense lawyers
7 properly bring to the Court's attention. Because I do not
8 want to provide anything to the Government that might
9 influence or affect the rights of the defendants with respect
10 to some of the materials, perhaps, primarily in Mr. Walker's
11 attachments.

12 So that is where we are. And I wanted you all here
13 at the same time with your clients to hear this from me
14 because we are going to need to have Curcio hearings. I am
15 going to need to ask questions. You are going to need to, the
16 defense lawyers are going to need to discuss with their
17 clients the unusual structure of your representation or, at
18 least, the arrangements that you have with your clients,
19 taking into account the trust. And so that is where we are at
20 the moment. It is a little bit complicated. I have never run
21 across this before in 18 years, but I want you to have the
22 opportunity to think about this and to make whatever
23 submissions, presentations, that you think would be
24 appropriate, but I also do not want to tie the hands of the
25 Government so that they are in the dark about some of the

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1 critical considerations, in terms of how the trust is being
2 structured and the circumstances of the financing of this
3 case.

4 MS. NECHELES: Your Honor, could I just make ---

5 THE COURT: Of course.

6 MS. NECHELES: Thank you, Your Honor.

7 Your Honor, I did not set up this trust.

8 Ms. Bronfman was counseled by people before me, before I was
9 representing her. But I think the structure of the trust and
10 the intent of the trust was to try to avoid some of the
11 problems that usually come up when one defendant is paying for
12 legal fees for other people. It was an attempt to put money
13 into the hands of a trustee and take any control away from
14 Ms. Bronfman, so that people could make decisions on their own
15 and that there would be no way for her to influence other
16 people's legal strategies. The people are being paid and she
17 has no control over whether they are paid.

18 They are -- the intent was so that nobody here, no
19 defendant could control any other defendant's legal strategy
20 and there wouldn't be that type of pressure. And I believe
21 that, I believe the Government already has the indenture. I
22 believe they know this. They've spoken with the trustee
23 themselves. They've interviewed the trustee. I don't think
24 that any of this is really news to them. I think that they --
25 my understanding is that they know, they've spoken with the

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1 trustee and are aware of the structure.

2 And so I think at this time, as Your Honor has said,
3 you know, Your Honor is aware of the restrictions on
4 Ms. Bronfman's trust, you know, her -- a separate trust, you
5 know, where her assets are mainly held. And that she does not
6 have the ability to control that and that money will not be
7 going and she doesn't really have liquid funds. So there is
8 no intent for more money to be going into this trust at this
9 time. And because of that, we think that many of the
10 questions that are in the Government's proposed extremely long
11 Curcio are wrong and improper, but I just wanted to explain to
12 the Court how we've seen it and how there was an intent, and I
13 think a successful attempt, to structure this in a way so that
14 nobody could control each other's legal strategy.

15 THE COURT: All right, thank you.

16 I understand what you have said, and it is
17 consistent with what I read in these documents, and I am glad
18 you raised in open court the fact that there appears to be no
19 plan or no intention or, perhaps, no ability to augment the
20 sum of money that was placed in the trust.

21 But I also understand that up to this point the vast
22 majority of the funds have already been expended by the
23 trustee. So, where we are is that two months before trial,
24 with so much more to do, there is going to come a point when
25 there are no further funds available to pay anyone's attorneys

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1 of the five additional defendants. All right?

2 So, that raises the issue for those defendants and
3 their counsel of whether, and I do not have and I do not seek
4 the information or the documents, the retainer agreements,
5 there may come a point where unless the other attorneys agree
6 that they are going to see this through to the end,
7 irrespective of the unavailability of further funds from the
8 trust, that the defendants who may be indigent are going to
9 ask for appointed counsel, which raises then the issue of
10 whether this trial will begin on April 29th, which the Court
11 fully expects it will.

12 And that is why I am bringing you here today because
13 I want everyone to hear this and know it, and when we get to
14 the Curcio hearing I am going to be asking counsel about that
15 very issue.

16 I am not going to ask you --

17 MS. NECHELES: Thank you.

18 THE COURT: -- because you represent Ms. Bronfman
19 and I assume you have whatever arrangements you have with her,
20 apart from this irrevocable trust.

21 MS. NECHELES: Yes. And I understand Your Honor is
22 dealing with a totally separate issue. I just wanted to deal
23 with that one issue and be clear on that. But I understand
24 that Your Honor is raising a different issue.

25 THE COURT: And another issue, a sidebar issue, is

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1 that the trust document also contains the names of potential
2 witnesses who might be provided funds for their attorneys in
3 order to represent them.

4 Now, I don't know that the Government has that list.
5 If it does not have the list, then the question is should it
6 have the list of those potential witnesses because for the
7 obvious reasons.

8 MS. NECHELES: And, Your Honor, we would be opposed
9 to giving -- you know, if the Government does not have this,
10 we would be opposed to giving it.

11 THE COURT: Giving what?

12 MS. NECHELES: Giving any of this to the Government,
13 we don't think it's proper discovery for them to be obtaining
14 any of this. It is not -- it is not a grand jury proceeding.

15 We want Your Honor to have all the information that
16 Your Honor needs to have for -- to understand the structure
17 that was set up and understand why there is no improper
18 influence on anybody; as the Second Circuit has required that
19 Your Honor look at these issues and make sure that you're
20 comfortable that there is no improper influence on any
21 defendant and that anybody has weighed whatever conflicts.

22 But we don't think it's proper for the Government to
23 somehow use this process, a Curcio process, as a discovery
24 method for the Government to obtain things that they may
25 consider evidence, using as evidence at trial. We would be

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1 opposed to that.

2 THE COURT: Well, they have not asked me for
3 anything.

4 MS. NECHELES: Okay.

5 THE COURT: I am the one who is asking because I
6 have the concern to protect the rights of the other defendants
7 in the case where they have private counsel being paid by a
8 trust and the trust funds are about to run out in the near
9 term, and then that puts those defendants and their counsel in
10 the awkward position that I have already penciled in. So,
11 that is really where I am.

12 I don't believe with respect to the payment of legal
13 fees that there is any Second Circuit caselaw that would
14 prohibit the Court from providing those kinds of documents to
15 the Government in order for the Court to have from the
16 Government a list of potential issues that need to be inquired
17 about in a Curcio setting.

18 But the reason I am doing all of this, not ordering
19 anything at this point, is I want you to understand the
20 difficulty that we have here. And the extent to which you can
21 be helpful to me in structuring what we do, I would like you
22 to provide that kind of guidance. That is the only reason we
23 are here today.

24 MS. NECHELES: Yes, we appreciate that, Your Honor.

25 THE COURT: Yes, Mr. Agnifilo.

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1 MR. AGNIFIL0: Yes, thank you.

2 So I hear Your Honor having concerns in two
3 different areas. There's the Curcio area, and we'll have that
4 hearing at the right time.

5 There is also a case management, and Your Honor
6 wants to know, quite frankly, are we all going to stay in the
7 case. I believe the answer is we are all staying in the case.
8 I know I'm staying in the case.

9 THE COURT: Well, then we're done with you, let's
10 move on.

11 MR. AGNIFIL0: Okay, that's good. Thank you, Judge.

12 THE COURT: I mean I am not asking you to answer
13 that question until you speak to your clients. So I am not
14 asking for instant answers here, but what I am asking is that
15 you have a full discussion.

16 And you are in a different position from the other
17 defendants because you have an arrangement, apparently, that I
18 don't know if any of the other counsel have, in terms of being
19 paid for your retainer; right?

20 MR. AGNIFIL0: So, I don't know what the other
21 counsel.

22 THE COURT: Well, neither do I.

23 MR. AGNIFIL0: Right, and neither do I. And just so
24 it's clear, when Your Honor ordered that the indenture be
25 provided to the Court, I was acting really as just sort of a

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1 middleman. I just gave it to the Court.

2 I had never seen it, the indenture, until Your Honor
3 ordered that it be provided to Your Honor. When Your Honor
4 ordered that, I spoke to Mr. Walker, he provided it to me and
5 I provided it to you. I didn't give it to any of the other
6 counsel because that -- Your Honor didn't order that. And so
7 Walker put in motion exactly what the Court ordered.

8 Just very briefly as it concerns Raniere. The money
9 is going to run out. We are not going to get our whole trial
10 fee, we're not, and you're stuck with me anyway. I mean I am
11 not going anywhere. I am seeing this through to the end of
12 trial and whatever happens absent an appeal.

13 THE COURT: Well, let me ask you this, because I
14 understand that the structure of your fee is what it is:

15 Has your entire fee been paid by this trust or is
16 any part of the balance going to be -- are you going to be
17 requesting the balance of your fee out of what is left?

18 And you know what is left in the trust because you
19 sent me the letter, right?

20 MR. AGNIFILO: Our whole fee has not been paid.

21 THE COURT: It has not?

22 MR. AGNIFILO: No. Our whole pretrial fee has been
23 paid. I don't expect that the trial fee will ever be paid in
24 full. I expect that I am going to try the case without the
25 trial fee being paid.

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1 THE COURT: Well, I will ask you that question at
2 the Curcio hearing.

3 MR. AGNIFILO: Yes, but we will be prepared to
4 provide any information Your Honor wants.

5 THE COURT: I mean there is only about, as of the
6 date of Mr. Walker's declaration, January 14th, without giving
7 precise amounts, I would say there is about 25 percent of the
8 total, or maybe a little more, that was placed in the trust by
9 Ms. Bronfman still remaining. So, that is not a lot of
10 money --

11 MR. AGNIFILO: Right.

12 THE COURT: -- to pay counsel for five defendants.
13 And all of these counsel are privately retained and excellent
14 lawyers whose hourly rate is probably substantial.

15 MR. AGNIFILO: So what I can say, and there's
16 certain things that we're, I think, as a group very happy to
17 discuss in open court. There are certain things, and we
18 haven't gotten to any of those areas, where if Your Honor
19 wanted information on that, we'd be happy to give it to Your
20 Honor, but just to Your Honor.

21 But in terms of this, we've been dealing as a
22 defense group with this reality for months. And we have known
23 for months that we all weren't going to be getting our full
24 pretrial and trial fees, or however they're structured. We
25 knew we were going to have to take, you know, essentially a

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1 haircut, which is how we've been viewing it. And I think
2 that's true for everybody.

3 I will let everybody answer their own questions in
4 their own time, but for us, you know, we're not -- we're in
5 this trial until the end and if we don't get paid our full
6 trial tree, we don't get paid our full trial fee. It wouldn't
7 be the first time that happened. So, from Mr. Raniere's
8 standpoint, that's where we are.

9 THE COURT: Thank you.

10 Well, before I turn to the other defendants, the
11 Government has not made any kind of request, so now the
12 Government knows what the Court has on an ex parte basis,
13 understands the Court's position and the Court's concern.

14 Before we go to the Curcio hearings stage, is there
15 anything that the Government would like to raise? Is there
16 anything that the Government believes it is entitled to or
17 would need in order to prepare additional questions for a
18 Curcio hearing?

19 Where is the Government on all of this?

20 MS. PENZA: Your Honor, as we set forth in our
21 initial Curcio letter, we did -- we did contact Mr. Walker,
22 who I believe is the same person who submitted the letter to
23 Your Honor. We were given very minimal information.

24 And just to set the record straight, we do not have
25 a copy of the indenture, even though Ms. Necheles seems to

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1 assume that we do.

2 So, Your Honor, we would appreciate the opportunity
3 to have whatever the Court deems in its discretion, that is
4 before the Court, so that we can advise on the Curcio issues
5 as we already have. But, obviously, we are operating with a
6 lack of information at this point.

7 And, frankly, it is concerning to us even the way
8 this hearing is operating. We have Mr. Agnifilo, again,
9 speaking for all of the defendants and --

10 THE COURT: I am going to get to everybody else, and
11 I think I am going to get to them in a way that permits them
12 to look at the indenture, to look at Mr. Walker's declaration,
13 and then to provide in writing, ex parte to the Court, their
14 views on how the Court should proceed.

15 I am taking it one step at a time, but I need to
16 take the step, which is the reason why I called this meeting
17 for today so that we do not lose any time and so that the
18 Court has an understanding of what the position of the defense
19 counsel are, and that the defense counsel have an opportunity
20 to discuss this issue with their clients. And I am glad all
21 the clients are here. I appreciate that you are all here on
22 short notice.

23 So this is my thought process right now. So, it is
24 good to know you have not seen -- the trust indenture does not
25 tell you very much. It is a beautiful trust indenture and

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1 drafted by some very capable lawyers, all right. The only
2 part of the trust indenture that I think might be an issue for
3 the defense is the listing of certain law firms and certain
4 potential witnesses, which I am sure the defense,
5 Ms. Bronfman's defense, is not terribly anxious for the
6 Government to have in case you have not thought of any of them
7 before; but I would assume that that would be an objection,
8 and that is the kind of objection that I would take very
9 seriously.

10 But, go ahead.

11 MS. PENZA: So, Your Honor, I think the Government
12 is in the position where we appreciate you giving -- that
13 you're going to give the defense an opportunity to weigh in
14 regarding the documents that are currently before the Court,
15 but we would appreciate the opportunity to review them and to
16 submit a supplemental letter depending on what those documents
17 show.

18 THE COURT: All right, thank you.

19 MS. PENZA: Thank you, Your Honor.

20 THE COURT: Okay.

21 Mr. Buckley.

22 MR. McGOVERN: Mr. McGovern. Mr. Buckley is not
23 here today.

24 THE COURT: Oh, Mr. McGovern. How are you today?

25 MR. McGOVERN: We appreciate Your Honor hearing more

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1 fully your concerns, and we've read your January 9th order and
2 sort of figured that this is where it's going.

3 It's an issue that Ms. Mack and Sean Buckley and
4 myself have been aware of for some time and have spoken about
5 thoroughly. I think the best -- we'd like to take up your
6 suggestion, which is to provide a submission to the Court that
7 answers specific questions you have about our fee arrangement
8 and our intentions to stay in the case.

9 THE COURT: All right.

10 Ms. Harris.

11 MS. HARRIS: Yes, Your Honor.

12 I just want to confer on behalf of Ms. Russell the
13 representations by my co-counsel, this has been an issue for
14 many months. It's an issue that's been the subject of
15 discussion, both among the joint defense or among the defense
16 team and, in particular, with my client, but I do think these
17 questions are appropriately handled, the sort of specifics are
18 appropriately handled in the way Your Honor proposed with
19 respect to ex parte submissions on behalf of each -- each
20 individual client.

21 I will say that I do believe that in short order the
22 Court will have comfort as to what lies ahead, and, perhaps,
23 it will streamline the issues with the forthcoming Curcio
24 hearings. There is always -- we can always hope, Your Honor.

25 THE COURT: I have never had an attorney tell me

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1 that the Court will have comfort, that's a new one, but thank
2 you.

3 MS. HARRIS: I'm feeling optimistic.

4 THE COURT: All right, thank you.

5 Mr. Diaz.

6 MR. DIAZ: Yes, Your Honor.

7 Your Honor, we agree with the Court's proposal for
8 the future. We agree with the Court's proposal for the
9 future, ex parte submissions. I've had ample discussions with
10 Ms. Salzman about this issue, but we do think that the Court's
11 plan of future submissions ex parte makes sense.

12 THE COURT: All right.

13 Mr. Soloway.

14 MR. SOLOWAY: Hello, Your Honor.

15 THE COURT: Hello.

16 MR. SOLOWAY: So I join in what counsel has said.
17 Your Honor has given us the opportunity to, you know, make a
18 submission after consideration and consultation with our
19 client and we're prepared to do that and that sounds like a
20 good idea, Judge. So, we are ready to move forward on that
21 basis.

22 THE COURT: All right, so I am going to direct
23 Mr. Agnifilo to provide the trust document, including the four
24 attachments or schedules, and the declaration from Mr. Walker
25 to his counsel for the other defendants. And I am going to

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1 set down Friday at 5 o'clock for ex parte submissions to the
2 Court as to questions that have been raised here today
3 regarding its dissemination, the dissemination of these
4 materials to the Government, and anything else that the
5 defense counsel wish to raise, including the question of
6 additional inquiries for the Curcio hearings. This way we can
7 move along, and then I will decide what to do.

8 All right?

9 MS. NECHELES: Your Honor, my understanding is you
10 are not asking me to put a submission in?

11 THE COURT: Well, you have told me your views. If
12 there is anything else, you are certainly welcome to make a
13 brief written submission, maybe just summarizing your views.
14 That might be helpful since I will have everything in writing
15 from other counsel.

16 MS. NECHELES: All right, no problem.

17 THE COURT: Okay?

18 MS. NECHELES: Sure.

19 THE COURT: Thank you.

20 MS. NECHELES: Thank you.

21 THE COURT: So, the next step will be that after I
22 have reviewed the submissions, I will decide how much, if any,
23 of the materials should be provided to the Government and give
24 the Government a deadline to submit further questions for the
25 Curcio hearings. Then I will appoint Curcio counsel and

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1 schedule the hearings for early in February. And Mr. Reccoppa
2 will be in touch with you to schedule your individual Curcio
3 hearings. We are going to reach out to Curcio counsel and
4 move forward with that.

5 So any other questions about the Curcio process?

6 MR. AGNIFIL0: No. Very clear, and thank you.

7 So, I will inform the trustee that the Court has
8 ordered that forthwith I shall provide --

9 THE COURT: Yes, please do so.

10 MR. AGNIFIL0: Yes, I will do that.

11 THE COURT: I assume that Mr. Walker and his client
12 will not have a problem with the defense seeing the these
13 documents.

14 MR. AGNIFIL0: Certainly, so long as -- if there's a
15 court order, there will be no problem.

16 THE COURT: Well, it is so ordered.

17 MR. AGNIFIL0: Yes; thank you, Judge.

18 THE COURT: All right.

19 I also had an application from Mr. Agnifilo in
20 connection with bail. I think we just received a short
21 response from the Government.

22 MS. PENZA: Yes, Your Honor.

23 THE COURT: All right, I will review everything.

24 Is there something more you would like to say?

25 MR. AGNIFIL0: I --

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1 THE COURT: I have not reviewed it yet.

2 MR. AGNIFIL0: I know that, Judge, and I don't want
3 to put the cart before the horse. I mean I would -- there's
4 two issues. There's the due process issue, and then there's
5 the more standard renewing of bail application.

6 So I would love the chance to get in front of Your
7 Honor as soon as Your Honor has had a chance to read the
8 papers.

9 THE COURT: Get in front of me?

10 MR. AGNIFIL0: Come back to court, come see you
11 again, come stand in my spot and talk to the Court the way I
12 do.

13 THE COURT: Anything else from the Government for
14 today?

15 MS. PENZA: No, Your Honor.

16 THE COURT: Anything from any defense counsel?

17 Hearing nothing, let's all remember April 29th.

18 And let me ask the Government, has there been
19 progress on a questionnaire?

20 MS. PENZA: We -- we just met with counsel this
21 morning on some additional -- some separate issues. So we
22 expect that we will meet again with defense counsel and be
23 prepared to update the Court on that.

24 THE COURT: I see.

25 MS. NECHELES: Your Honor, we are drafting something

W. Name - direct/cross - Atty

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1 that we hope to get to the Government, at least a draft, very
2 soon so that we can have the discussions that Your Honor wants
3 us to have and we want to have.

4 THE COURT: All right.

5 MS. NECHELES: To be able, hopefully, to bring to
6 Your Honor a questionnaire that has mainly agreed upon things
7 and then whatever questions, you know, clearly identified as
8 disagreements.

9 THE COURT: All right.

10 MR. AGNIFIL0: We hope that by the next court
11 appearance on the 6th we are going to have agreed upon dates
12 for things like 3500, experts, stuff like that. So, if we
13 have any disagreements we'll let the Court know, but I think
14 we are going to agree on most of it.

15 THE COURT: All right, very good.

16 I have no calendar the rest of the day, so if you
17 would like to sit here all afternoon and talk to each other,
18 be my guest.

19 All right, thank you very much.

20 MR. AGNIFIL0: Thank you, Judge.

21 MS. PENZA: Thank you, Your Honor.

22 THE COURT: Thank you very much.

23 (Matter adjourned.)

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SAM OCR RMR CRR RPR

I certify the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.
/s/ Stacy A. Mace January 29, 2019